

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

|                             |   |                                 |
|-----------------------------|---|---------------------------------|
| <b>MARK BREAKIRON,</b>      | : |                                 |
| <b>Petitioner</b>           | : |                                 |
|                             | : | <b>Civil Action No. 00-300</b>  |
| <b>v.</b>                   | : |                                 |
|                             | : | <b>Judge Nora Barry Fischer</b> |
| <b>MARTIN HORN, et al.,</b> | : |                                 |
| <b>Respondents</b>          | : | <b>THIS IS A CAPITAL CASE</b>   |

**MOTION TO SUPPLEMENT RECORD OF HEARING**

Respondents (Commonwealth), through their attorneys, respectfully request to supplement the record of the hearing, and in support thereof, aver:

1. On February 2, 2007, the Court held an evidentiary hearing on petitioner's Amended Claim IV.
2. The factual issue presented was whether Commonwealth witness Ellis Price received an undisclosed benefit from the Fayette County District Attorney's Office in his criminal case in exchange for his testimony against the petitioner.
3. During the evidentiary hearing, the Commonwealth introduced four exhibits, marked Commonwealth's Exhibits A-D. All of these exhibits were admitted into evidence.
4. Respondents seek to supplement the record of the hearing with selected documents from the Fayette County Court of Common Pleas in *Commonwealth v. Ellis Price*. See attached.
5. The attached records are:
  - \*Exhibit E: Transcript of Criminal Jury Trial Proceedings, *Commonwealth v. Ellis Roy Price and Robert Keith Price*
  - \*Exhibit F: Motion in Arrest of Judgment and for a New Trial, *Commonwealth v. Ellis Price*
  - \*Exhibit G: Commonwealth's Brief in Opposition to Defendant's Motion Arrest of Judgment and for New Trial, *Commonwealth v. Ellis Price*

6. It is my understanding from prior discussions with counsel for the petitioner and from the Court's recent conference call that there is no objection to the admission of these exhibits.

WHEREFORE, respondents respectfully request that this Court grant the Motion to Supplement Record of Hearing.

**Respectfully submitted,**

**THOMAS W. CORBETT, JR.**  
**Attorney General**

**RICHARD A. SHEETZ, JR.**  
**Executive Deputy Attorney General**  
**Criminal Law Division**

**AMY ZAPP**  
**Chief Deputy Attorney General**  
**Appeals and Legal Services Section**

**BY:** */s/ Christopher D. Carusone*  
**CHRISTOPHER D. CARUSONE**  
**Senior Deputy Attorney General**  
**Attorney ID# 71160**

**OFFICE OF ATTORNEY GENERAL**  
**Criminal Law Division**  
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**Strawberry Square, 16<sup>th</sup> Floor**  
**Harrisburg, PA 17120**  
**(717) 783-6273**

**Date: May 25, 2007**

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**CERTIFICATE OF SERVICE**

I, Christopher D. Carusone, Senior Deputy Attorney General, counsel for respondents in the above-captioned matter, hereby certify that I this day served the foregoing **Motion To Supplement Record of Hearing** by serving a copy *via* email addressed as follows:

**Stuart Lev, Esquire [Stuart\_Lev@fd.org]  
Tricia Russell, Esquire [Tricia\_Russell@fd.org]  
Defender Association of Philadelphia  
Capital Habeas Corpus Unit  
The Curtis Center, Suite 545 West  
Philadelphia, PA 19106  
(Counsel for Petitioner)**

\_\_\_\_ [s] Christopher D. Carusone  
CHRISTOPHER D. CARUSONE  
Senior Deputy Attorney General

Date: May 25, 2007